

MINUTES OF THE ZONING BOARD OF APPEALS  
TOWN OF ANDOVER, MASSACHUSETTS

Public Safety Center, 32 N. Main St., Andover

July 11, 2007

**APPROVED 8-2-07**

There were present: McDonough, Reilly, Jeton, Batchelder and Brown. Meeting opened at 7:05 pm.

PETITION NO. 3710

PETITIONER: Andover Village Associates, LLC

PREMISES AFFECTED: 429-431 South Main St.

MEMBERS: McDonough, Reilly, Jeton, and Brown.

McDonough asked the applicant if they wished to share any more information. Perkins did not, but reminded the Board that Jeton asked for time to read the previous decisions. Brown noted that the Board's composition had changed: Anderson was absent & Batchelder had not previously participated. The Board discussed whether they could hold the continued public hearing, either with four members or with Batchelder participating. Perkins asked if Anderson could review the minutes/recording of the meeting. McDonough asked if there were any new questions or information. Matt Johnson, 5 Boston Rd., asked Jeton if she had any questions after reviewing the prior decisions. Jeton explained that in reading the prior decisions she was looking for neighborhood concerns and the Board's response, but nothing new came out of it. It was helpful though. Brown made a motion to continue the hearing to a date in July to be determined. Reilly seconded the motion & the Board voted (4-0) to continue the hearing. Jeton added that it be as soon as possible.

PETITION NO. 3711

PETITIONER: Lam

PREMISES AFFECTED: 13 Green Meadow Ln.

MEMBERS: McDonough, Reilly, Jeton, Batchelder and Brown

Mr. Simon Lam represented himself in his request for a modification of Decision # 3289 (comp permit) to finish his basement for additional living space. The Board discussed the necessity to modify the comp permit due to the specifications stating 'as specified in plans filed/approved with the comp permit'. Brown pointed out condition #3 relative to floor layout conforming with approved plans. The petitioner's house is not one of the affordable units in the development. Jeton inquired as to whether the sump pump & bathroom on the plan currently exist. Mr. Lam stated that they do not. Kaija Gilmore, Inspector of Buildings, commented that the comp permit, which must be complied with, predetermines the square footage of the units. McDonough pointed out Condition #2 that states no unit shall be larger than 2700 sq. ft. of living space, exclusive of garage & basement. Gilmore added that the renovation of the basement is not a material change. Since only the ZBA can allow the modification, the Board needs to find a hardship. The Board discussed why the living area is limited as well as whether an increase would also increase the number of cars. Batchelder noted that the number of cars is not limited. Gilmore said she supported the application. Reilly made a motion to close the public hearing & open deliberation. Brown seconded the motion & the Board voted (5-0) to close the hearing & open deliberation. McDonough asked to Board if they wanted to vote on the modification of the comp permit. Jeton asked for clarification if it would be a modification for this one house alone, or the entire comp permit. McDonough stated that it would be for the entire comp permit. Brown felt that it shouldn't be blanket permission for the whole project, but specific to #13 & to reference the plans submitted, plus no change in character of neighborhood. Batchelder made a motion to modify Decision #3218. Reilly seconded the motion & the Board voted (5-0) to modify Decision #3218. Batchelder will write the decision.

PETITION NO: 3715

PETITIONER: Durham & Zajechowski

PREMISES AFFECTED: 91 Gould Rd.

MEMBERS: McDonough, Reilly, Jeton, Batchelder and Brown

Andrew Durham represented himself & his wife in their request to construct a 2<sup>nd</sup> story and front entrance. The existing house, built in 1954-5, has a front setback of 42.5 ft. in the SRC district. There will be a small extension of the footprint for the 6'x10' front porch & stairs. The second story will not overhang the existing structure. McDonough asked the Inspector of Buildings whether a certified plot plan would be required. Inspector Gilmore stated that it isn't necessary before the building permit is issued. Brown made a motion to close the public hearing & open deliberation. Reilly seconded the motion & the Board voted (5-0) to close the hearing & open deliberation. Jeton noted that this is similar to other cases. Brown added that the house was built in 1954 when the front setback was 30'. Brown made a motion to grant a special permit with the condition that no part of the expanded structure may be closer to the street than the closest point of the existing house, with the exception of the front steps. The Board voted (5-0) to grant a special permit. Brown will write the decision.

PETITION NO. 3712

PETITIONERS: Nesbit

PREMISES AFFECTED: 156 Elm Street

MEMBERS: McDonough, Reilly, Jeton, Batchelder and Brown

Jonathan Nesbit represented himself in his request for a variance or special permit to construct a 6'x8' dormer to increase the headroom in the shower. He noted that no additional floor area would be gained. The existing house is less than 15' to the side lot line. He had a letter of support from a neighbor. The house was built in 1919. Brown asked when Elysian Drive was constructed. Reilly stated that it was built in the 1960's. McDonough noted that the proposed dormer would increase the non-conformity. Brown added that it increases the building envelope. Jeton made a motion to close the public hearing & open deliberation. Reilly seconded the motion & the Board voted (5-0) to close the hearing & open deliberation. Batchelder made a motion to grant a special permit. Reilly seconded the motion & the Board voted (5-0) to grant the special permit. Reilly will write the decision.

PETITION NO. 3713

PETITIONER: White

PREMISES AFFECTED: 41 River Street

MEMBERS: McDonough, Reilly, Jeton, Batchelder and Brown

Douglas White represented himself in his request to construct a detached garage and a deck that will not meet the minimum side setback. The proposed setback is 6' on the deck. Petitioner stated that he has conservation approval from the state as well as the town. Reilly noted that the lot is very tight with the house situated right at the sidewalk's edge. The Shawsheen River abuts the lot to the rear. Jeton & Batchelder stated that there is a hardship. Jeton asked if Petitioner had spoken with neighbors. He has spoken with some & none expressed opposition. Brown made a motion to close the public hearing & waive a site view. Reilly seconded the motion. The Board voted (5-0) to close the public hearing. McDonough stated that it would be a variance. Batchelder made a motion to grant a variance. Reilly seconded the motion. The Board voted (5-0) to grant a variance. McDonough will write the decision.

PETITION NO. 3714

PETITIONER: Ristuccia

PREMISES AFFECTED: 88 Central Street

MEMBERS: McDonough, Reilly, Jeton, Batchelder and Brown

Attorney Mark Johnson represented Michael Ristuccia, 373 S. Main St., for a dimensional special permit under section 7.9 to subdivide a lot with an historic house and place another historic house on the new lot. Both lots would meet the minimum area requirement. Parcel 1 would not meet frontage & rear setback. The existing house is set back 17.5' and will not be moved. It is the Petitioner's intention to relocate Glebe House, now owned by Christ Church, onto Parcel 2. The house will not have to be cut to move down Central Street from its current location on the corner of Brook Street & Central Street. Ristuccia told the Board that professionals assessed the structural defects of 88 Central Street and include termites, dry rot, rot & other issues that he hopes to repair. Ristuccia has spoken with neighbors, particularly about saving trees. Karen Herman, Chair of Preservation Commission, voiced her support suggesting that both buildings have a preservation restriction on them in perpetuity. Brown asked for clarification on the threat to 88 Central Street being in danger of demolition. Ristuccia stated that it is impossible to predict the sale of a house to a developer wouldn't happen, but that it would be very difficult to sell the house in its current condition. The threat may be in the future. Johnson added that the revenue from the additional lot funds the renovation of the existing house. 88 Central has been on the market for \$930,000 since mid-January & is currently occupied. Johnson reminded the Board that the relief is for the rear setback & frontage only. There is no developer involved at present. Karen Herman informed the Board that 1<sup>st</sup> period houses are difficult to sell & tend to be on the market for a long time. Several neighbors expressed concern about detracting from the streetscape with another house on a new lot, tree removal, density, and traffic. Reverend Jeff Gill, Christ Church, explained that the church needs to expand and wants to preserve the historic Glebe House at the same time. Parishioners will vote in February 2008 on 3 expansion options, 2 of which include removal of Glebe House. He is in favor of the proposal. Craig & Barbara Castleman, direct abutters at 93 Central St., spoke in favor also. There were some questions whether the Glebe House would be the only structure moved onto the new lot if approved. Ristuccia explained that is his intention, but it is up to the church's parishioners ultimately. Otherwise he will look for another structure. Brown suggested that approval could be conditional on Glebe House or other historic house being moved to the new lot. Johnson & Ristuccia explained that such a condition could be complicated by loss of money if too much time passes. Ristuccia added that the proposal is for the greater good of the Town, but that he understands neighbors' concerns. Herman commented on the high quality of Ristuccia's work & the positive impact of the proposal. She also asked the Board to place a condition that if an historic house can't be moved to the lot that a review process for new construction be imposed. Johnson emphasized Ristuccia's concern over time lapsing stating that he could wait until March 2008. The Board waived a site view. Jeton made a motion to close the public hearing & waive the site view. Batchelder seconded the motion & the Board voted (5-0) to close the hearing & waive the site view. The Board then deliberated the case. Jeton pointed out that the other side of the street is not historic, but transitional with some houses built within the past decade & others lacking 115' frontage. Brown added that some are close to the street. McDonough suggested limiting size of structure. Jeton, Batchelder & Reilly argued that the Board couldn't be arbitrary. Reilly reminded them that they are being asked for a dimensional special permit. McDonough wants to see Town Counsel's advice on restrictions & covenants. Jeton argued that the Board doesn't have such authority, but the Planning Board does. McDonough wants to arrange a meeting with Town Counsel & continue the deliberation. She will contact Town Counsel and bring her findings back to the Board at the continued deliberation (date to be determined). Brown made a motion to continue the deliberation. Batchelder seconded the motion & the Board voted (5-0) to continue the deliberation.

Meeting adjourned at 9:18 pm.